

A DISSENTING VIEW TO THE REPORT OF THE
Approved For Release 2004/09/03 : CIA-RDP91M00696R000800100001-7
SELECT COMMITTEE ON INTELLIGENCE OF THE
HOUSE OF REPRESENTATIVES
BY THE HONORABLE DALE MILFORD

January 30, 1976

I. FOREWORD

A. Divergence in Committee

The membership of the House Select Committee on Intelligence was made up of individuals that possessed very divergent political philosophies, views and opinions. However, the hearing record will reflect that, early in the life of the Committee, it split into two homogeneous groups. While the members of the individual groups had very similar views and opinions, the differences between groups were vast and most often irreconcilable.. Therefore the Committee's product is void of the usual compromises that normally stem from legislative bodies.

The record will clearly reflect a 9 to 4 vote on all significant issues. Partisanship was not a significant factor, in that the Members of each party were present in each of the two divergent groups.

While this dissenting view refers to the two divergent Committee groups as the "Majority Bloc" and the "Minority Bloc", it should be clearly understood that the use of these terms is not intended, in any way, to be associated with partisan politics.

B. Why a Dissenting View?

In view of the vast differences between the two Committee blocs, the author felt compelled to draft a dissenting view. The House Select Committee on Intelligence

was created by the full House to conduct an inquiry into activities of all federal agencies involved in foreign and domestic intelligence commonly called the "Intelligence Community". The report signed by the Majority Bloc of this Committee is so imbalanced, so damaging to our intelligence gathering effort, and so destructive to our relations with certain countries, as to make a mockery of the original mission of the Committee.

If the Committee's purpose had been to abolish the Intelligence Community, its report might have been useful. Nowhere in the report can one find a single positive remark on behalf of the Intelligence Community, or the accounting of a single successful mission, or any sort of an acknowledgment to the value of the Nation's intelligence efforts. From the first page to the last, the Committee report is filled with loaded editorial language, unsubstantiated charges, and casually expressed judgments -- all couched in negative terms. The language of the report is glib rather than substantive; it is filled with cheap shots rather than sober judgments.

The report unfairly castigates the intelligence agencies, not just for alleged past abuses and wrong-doing, but also for normal and legal practices that are carried out under mandates of present laws. Many conclusions in

the report are based on the testimony of former intelligence community employees, some of them disgruntled; authors of articles and books; newspaper accounts; staff interviews which are a part of the files but not of the record; and other sources of dubious value.

This dissent is an effort to point out deficiencies in the Committee Report; and to provide information and conclusions which were not incorporated in the report adopted by the majority of the Committee.

II. THE INVESTIGATION

A. The Work of the Committee

It is unfortunate that Committee efforts were devoted in the most part to an examination of intelligence failures over the past several years. There was no apparent effort to look at the intelligence successes during those years. Even worse, no one seems to have taken the time or made an effort to look at the current capabilities of our intelligence agencies, nor did anyone try to determine if the errors and inadequacies of the past had been or were being rectified. The Committee report is a most cogent example of the oft used phrase "Monday morning quarterbacking." It is couched in "Ivory Tower" terms which give the impression that intelligence mistakes were so gross and so fundamental that even the members of the young Committee staff--with absolutely no experience in intelligence matters--could have easily foreseen the pitfalls and avoided the consequences. Additionally, the report gives the impression that the Committee feels that all intelligence effort must be perfect, as if in real life the secrets of others can invariably be penetrated. Examination of past errors in any field of endeavor is useful for the lessons we learn. But such examination is of little value unless it is compared to the current status of the specialty, in an attempt to determine if those past errors have been corrected. The

Committee report reflects no such efforts but rather appears to be a study in finger pointing, and even if it were factually accurate it serves little in the way of informing the public as to the current activities of our intelligence agencies and their present value to the nation.

B. Some of the Handicaps

This Committee and its members were handicapped to some extent from the beginning because it is a Select Committee. Members of a Select Committee serve on that Committee in addition to service on their assigned standing committees. There has been an additional handicap in serving on the Select Committee on Intelligence. Many of the hearings covered sensitive or classified material, and were held in executive session. Many of the documents used by the Committee were classified or sensitive, and these and executive session hearings records could only be reviewed and studied by the Members in the Committee's offices. Thus the members' normal times for doing "homework" were, of necessity, eliminated.

The combination of demands on the individual Members' time and the sensitive nature of the work creates an unparalleled dependency on the work of the staff. In this instance the dependence was entirely on the Committee's own staff, since staff members of the individual Member's were not permitted access to the Committees files or records, or permitted to attend executive sessions.

C. Individual Investigation

The highest service this Committee could have rendered to our country would have been to examine U. S. intelligence efforts as they exist today, objectively, without any preconceived ideas, and to report to the nation the findings of such an investigation. In such a task, it would have been necessary to study the past, not only as a means of understanding the present, but also by means of constructive criticism to point out areas where improvement might be possible. From the beginning it was apparent that the major thrust of Committee efforts were going to be aimed at examining the past with little work effort toward determining the current situation.

This writer decided that time and effort should also be invested in a firsthand examination of the intelligence community as it functions today. A special effort was made to look personally at the intelligence process from the beginning of the cycle to the end, through personal visits to intelligence facilities both within the United States and abroad. Every opportunity was taken to travel to areas where the entire intelligence process is most active. During these travels formal and informal meetings were held with our intelligence officials at the top levels, and at the working level. Meetings were held with our ambassadors and military commanders who need and use intelligence on a daily basis,

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and with Heads of State and lower level officials of foreign governments. At these meetings, frank questions were asked about the intelligence process, about weaknesses and deficiencies therein, about past intelligence failures and subsequent remedial action. The intelligence needs of our ambassadors and military commanders were examined first hand, and their opinions on whether those needs were being satisfied were solicited. The intelligence coordination process was examined, particularly at overseas installations where accurate and timely intelligence is absolutely essential. In addition, a close look was taken at the quantity of intelligence being produced and at its usefulness to people who have an immediate need for early alert of items of intelligence which are perishable, where to wait for raw intelligence to be processed to its finished state would depreciate its very nature.

The factfinding efforts conducted abroad were duplicated here at home. Visits and tours were made to as many intelligence headquarters and facilities as possible. Once again, working level people were involved, as well as department heads and decision and policy makers. Some of these meetings were formal briefings; many more of them were kept completely informal -- "bull sessions", if you will, over cups of coffee.

These officials were aware they were talking with a Member of the Select Committee, and they had ample opportunity

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to express dissatisfaction with the intelligence process. Because of the variances in the tasks of the people involved, marked disagreement and a lack of cooperation were anticipated. The experience was to the contrary. The sources were forthcoming and frank, regardless of whether the person was a producer or user of intelligence. But more important, was the finding that by and large, the intelligence process is functioning well and is of utmost value to our policy-makers. This is not to say that no problem areas were found. There were. But those found were recognized by the principals involved, and in almost every case, corrective efforts were under way.

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III. RESULTS OF INVESTIGATION

A. Nature of Intelligence

1.) Purpose

The Committee report is based on a fundamental misconception, that the primary purpose of the nation's complex and sophisticated intelligence system is to "predict" specific events. This is simplistic nonsense. The primary purpose of intelligence is to give the policy officer an understanding of foreign leaders and events. One aspect of this, of course, is to prevent surprise, to warn him of likely major events, and the consequences that might ensue for the U.S., far enough in advance for him to take action. The policy officer should reasonably expect that intelligence will put him in the context of events as they occur; that it will help him understand the dynamics of a situation; that it will lay out a range of possible outcomes, especially those that damage U.S. interests or present an opportunity to the U.S.; that it will seek by further collection and analysis to narrow this range, to reduce many possibilities to a few, and to rank them; and that it will of course warn him at the earliest possible time that the likelihood of a serious crisis is increasing.

The India-Pakistan War of December 1971 is an excellent example of the proper functioning of

intelligence warning. CIA reported early in 1971 that the victory of the East Pakistanis in a national election would be unacceptable to West Pakistan and could provoke a West Pakistani military crackdown in the East. It warned of the Indian reaction to such a move, and pointed out that Pakistan's internal crisis might well become an international one. After the West Pakistanis cracked down in March, it was able to assess the Indian reaction, and by June to warn that events were moving toward war. As the year progressed, it described Indian military preparations and later the Indian military incursions in the East that eventually precipitated war. At no point did it forecast a specific date, but its customers were fully aware of the imminence of war, of its causes, of the role of the Soviet and Chinese, of the high probability of Indian victory and East Pakistani independence, and of the International consequences that might flow from the weakness of the new state of Bangladesh.

2.) Limitations of Intelligence

While intelligence should warn policy makers of likely major events which might bring adverse consequences to the nation, it must not cry wolf too often. It must not cover itself against every eventuality by providing a world-wide laundry list. It must have the courage to limit itself to the important and the probable,

and it must therefore have the courage occasionally to be wrong.

Secretary Rusk put this very well when he testified before the Senate Committee on Government Operations on January 22nd:

Providence has not given us the ability to pierce the fog of the future with accuracy. I think that it would be unwise for us to score an intelligence community by its ability to predict with certainty what is going to happen.

The Soviets moved into Czechoslovakia on a certain Tuesday night in August, 1968. I had some impression afterwards that they had made that decision only three or four days beforehand.

If we had asked the intelligence community, as we did a week before, as to whether they were going to move into Czechoslovakia, there is no way that the intelligence community could have told us, because the Russians did not know.

We tend to call upon our intelligence community for information which is not present in the real world. This is, in part, a very practical consideration. If we are going to hold the intelligence community in the role of prophet, they are going to flood policy offices with all sorts of predictions; 98 percent never happen at all, and it leaves the policy officer with the job of trying to figure out which ones are likely to be for real and which ones are not.

At best, the intelligence community can be estimators on such things, and I hope we will not impose upon them what might be called the Pearly Harbor syndrome of forcing them to make predictions all over the place, just to have a protective shield in case something goes wrong that they had not anticipated.

It would, of course, be desirable if intelligence could go beyond warning of possible developments

to prediction of specific ones. Often hard evidence is available that makes this possible, as in CIA's precise warning of the date for the Turkish invasion of Cyprus in 1974. But more often hard evidence is unobtainable, and in these cases it would be a disservice for intelligence officers to make prediction rather than warning their primary goal. The prediction would almost never be exactly right, and often quite wrong. Such a record would, to say the least, shake national confidence in intelligence and destroy the usefulness of the very important service it can render.

Major events usually occur as the result of political decisions. These in turn result from the actions of one man or the contentions of the few. Consistently accurate prediction of such decisions is impossible: a leader often does not know himself what he will do, and he seeks to keep his options open as long as possible. The decision not yet made, the small group of colonels plotting secretly against their government, the act on impulse or on accidental opportunity -- all make political prediction a game the intelligence officer is wise not to play. For example, in 1968, our intelligence clearly warned that the Soviets had made all the preparations necessary to invade Czechoslovakia. As Secretary Rusk pointed out, having made these preparations, the Politburo backed and filled for three weeks before deciding, a day or so before

the event, to move. And even then the vote was close. To have predicted the exact date of the invasion would have been impossible prior to the date the final decision was made. To have attempted to predict such a date before the decision was made would have been a disservice.

There is also the prediction which leads to action which makes the prediction wrong. The Intelligence Community last year warned of the imminent danger of war between Greece and Turkey. The warning triggered urgent and successful diplomatic efforts to head off hostilities. Was the warning false? Of course not!

A further point that needs to be emphasized is that the active collection of intelligence on an impending event, such as a coup d'etat, in order to make possible a prediction of such an event, can lead to the unjustified accusation that U.S. intelligence is actually fomenting the coup d'etat. In short, political or diplomatic considerations can require that the search for predictive information be subordinated to larger policy considerations.

3.) Morality of Intelligence

It would be a disservice to the many dedicated and patriotic people in the intelligence community whose lives are devoted to their country not to say something about the moral aspects of intelligence. Intelligence work -- by its very nature -- is a secret business, a sometimes nasty business and a dangerous business. All

three are facts of life, regardless of individual morals, national standards, or international public opinion.

The Committee Report often criticizes agencies within the Intelligence Community for operations abroad that are not in keeping with the morals of this nation and the political standards mandated by our Constitution. Such criticism is unrealistic and naive. To penalize our foreign intelligence officers and agents by mandating that they should operate in the international arena totally within the standards mandated by our Constitution would be akin to tying a prize fighter's arms before sending him into the ring.

Every nation in this world has laws prohibiting foreign espionage and covert activities. Paradoxically, every nation in the world knows full well that these activities are taking place within its boundaries. All of this boils down to the necessity of having to "fight fire with fire". Under these conditions, it hardly makes sense for one to attack his own firemen. It would seem that the more prudent action would quietly make sure the fire fighters are under firm control. In other words, if they have done wrong, quietly and effectively "break their heads". But, don't do it on the front pages of the world where you destroy their ability to fight fires.

In this report Congress is officially announcing to the world that it is severely criticizing

our CIA for actions in other countries that are identical to those of our adversaries. Nowhere is there any evidence that our adversaries are -- in any way -- lessening their efforts in international intelligence or covert activities. Our adversaries are well aware of the American propensity for "fair play", our love of freedom, and the openness of our society. They are not hindered by such moral and operational restrictions and they make full use of their knowledge of the propensities of our society in their attempts to manipulate and even destroy our society. Should our nation be abandoned to such objectives?

B. Improvements in Intelligence Procedures

By the standards of warning, of ensuring that the President and the NSC are aware of potential developments in time to respond, American intelligence has a steady record of success. It has also failed on occasion and will again. The Arab-Israeli War of 1973, for instance, was a failure by any standard. But to judge any entity strictly on its failures, without any mention of the relationship of those failures to the totality of effort is absurd. Even the Committee made mistakes. It would have been a much greater service to the Nation had the Committee devoted a portion of its report to such a comparison. Had it done so, it would have found that intel-

ligence failures are not a major portion of total intelligence effort.

Had the Committee been interested in such an exercise, it would also have found that even those failures were used by the intelligence community in an affirmative way. During the course of the investigation, it became evident that the intelligence community investigates its own system to determine where weaknesses lie and to remedy them. The many charges incorporated into the system demonstrate that the American intelligence is viable and constantly improving. For example, during the past three years, the following changes have been incorporated into the intelligence process:

1. New methods of technical collection, more responsive to crisis requirements, have been developed.
2. The DCI has established the "Alert Memorandum" as a mechanism for warning the national authorities of potential serious problems.
3. The apparatus for "strategic warning" -- warning of Soviet military attack -- has been reorganized and strengthened.
4. The Community has set up a program to develop a single Community situation report for crisis situations.
5. The DCI has established a new daily publication designed to give the senior policy officer a broader coverage of critical intelligence.

6. The DCI has established a comprehensive system for assessing the intelligence produced against the money spent to get it.

7. The Community has established a new mechanism, the USIB Human Sources Committee, to provide better access to information sources in the U.S. government outside the intelligence agencies.

8. The DCI has established a group of National Intelligence Officers whose functions include achieving a better focus of intelligence assets on major national problems and better communications among consumers, producers and collectors.

9. New procedures have been established for more rapid transmittal of critical intelligence.

10. An effort is under way to eliminate excessive compartmentation of information, and substantial progress has already been made.

11. The operations centers of the various agencies have been more closely linked by communications systems and procedures that enable extremely rapid correlation and evaluation of critical intelligence.

12. The National Security Agency has taken steps to ensure that the meaning of the information it disseminates is not obscured by technical detail.

13. There has been a considerable improvement in informal substantive give and take among expert analysts in the Community, both within and among disciplines.

14. The Community has developed more systematic techniques for expressing analysts' judgments on the probability of a given event. These techniques also display for the policy officer the range of analysts' individual judgments on these issues.

15. The Community has revamped its approach to estimating Middle East military developments. It is now not only identifying the strengths of the major antagonists, but also trying to envisage various ways in which a war might develop and be played out. This has been especially helpful to contingency planners. (Incidentally, major estimates of "next steps" in the Middle East situation were produced at critical points during the past two years; the Community is back on the mark after the lapse of 1973).

The above recital is not comprehensive, nor can it be fully specific if security is to be maintained. Nevertheless, it demonstrates that the leadership of U.S. intelligence is strong, innovative, and flexible. Above all, it is willing, first, to be honest with itself about its own mistakes, and second, to correct them. All the Committee has done in this report is to illustrate the first point.

IV. COMMENTS ON THE MAJORITY REPORT

Throughout this dissent, references are made to errors, bias, inaccuracies, questionable judgments, and other faults in the Committee report. These references and charges are not made lightly and without basis. They are made from personal knowledge of the testimony in both open hearing and executive session; executive session Committee deliberations; papers and documents on file with the Committee; and other material. This section of the dissent contains some examples of basic faults in the Committee report, and a discussion of the misuse and misapplication of the intelligence community's own "post mortem" studies of completed operations, studies designed by their very nature to find fault.

A. Inaccuracies and Bias

With regard to the dispute over whether or not the Committee could hear middle level State Department personnel, (draft report pages 26-33) the Committee report states that "Dr. Kissenger's order (Forbidding these witnesses' appearance) was issued in spite of two United States laws which protect and guarantee the right of a federal employee to provide information to Congress". This flat statement clearly reflects an interpretation of the applicable laws. A strong case also can be made

that the appearance of these middle level employees is contrary to statute.

In the Committee Report section entitled "Deceptive Budgets", much is made of the fact that the General Accounting Office is "denied access to secret intelligence budgets". What is not stated is that the law establishing the Central Intelligence Agency forbids outside audit of such funds. The question of whether or not the CIA's internal auditing procedures are adequate is a valid question, but the law must be changed before the GAO can go in and find out.

The report questions the ability of the Office of Management and Budget to control effectively the intelligence budget, and this question is valid. The Report states , (page 86), "Testimony before this Committee revealed that only six OMB employees work full-time on the foreign intelligence budget. Of these six, three are former CIA employees." While the question is valid, the innuendo is unnecessary. The fact is that many of the OMB's analysts come from the Departments they analyze, and are so selected because their familiarity with the subjects before them is of value to the OMB.

The report states (page 236) that Defense Intelligence Agency officials "are ready to admit they cannot match CIA" and that "even in military intelligence they (CIA) are at least our equals." These Report quotations

are out of context, and should accurately reflect the DIA admission that it did not match CIA expertise in Soviet defense spending, a CIA specialty; and that the "at least our equals" applied only to a portion, and not all, of military intelligence. This is not to enter into the valid discussion of the value of the DIA, but to point out that the issue is not here presented fairly.

On page 319 of the report is this allegation: "For those who do join SWP (the Socialist Workers Party), the chill is likely to spread to employers. The Committee heard from one witness who termed the FBI's inquiries about his employee, Bruce Bloy, who was an SWP member, as 'presumptive, mysterious, and ... aggressive'." There is no mention in the report of a letter in the Committee's files clarifying that the inquiries attributed to the FBI were in fact made by an employee of another Committee of the U.S. House of Representatives.

Pages 124 through 126 of the report discuss CIA dealings with educational institutions, citing President Johnson's prohibition of covert assistance to these institutions. The report goes on to say, "... but the Agency unilaterally reserved the right to, and does, depart from the Presidential order when it has the need to do so." This is a bit of semantics unfairly used. The CIA does in fact use educational institutions for some classified projects, but these are not "covert" and in

all instances senior officials at the institutions are aware they are dealing with the CIA. Whether this is right or wrong, there is a distinct difference between "classified" and "covert".

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As stated in the introduction to this section of the dissent, these are only a few examples of misuse of source material. They are, however, sufficient to be indicative of a hundred or more instances of misuse in the report and its myriad of footnotes.

B. The "Post-Mortems"

In the Committee report, much use is made of "Post-Mortems" to substantiate charges that our intelligence agencies have for the most part failed during times of major world crisis. To use these "Post-Mortems" in such fashion is unfair unless a balanced discussion of just what a "post-mortem" is accompanies their use.

In order to understand the function of a post-mortem, one must recognize the fact that no large and complex business is or can be perfect. Even if this were the case at any given time, changing times and circumstance would dictate a need for change. The Model-T Ford would not adequately serve the needs of today's society. Given the fact that imperfections are bound to exist, proper managerial techniques call for a mechanism which will

point out the imperfections and make recommendations for improvement.

This, then, is what the post-mortem is to the intelligence community. It is a device formulated by the Director of Central Intelligence to point up weaknesses in the overall intelligence performance after a crisis. Since it is designed as a tool to improve performance, it necessarily emphasizes weaknesses rather than strengths. It is like a post-game review held by the coaching staff of a football team. Whether you have won or lost, a look at the film clips after the game will point out missed blocks or inadequate pass patterns and will hopefully strengthen the team for the next game.

Furthermore, the intelligence post-mortems were created by the intelligence community itself, not by some outside watchdog. It is a self-criticism device. As such, it is laudatory and a reflection on how adequately our intelligence agencies serve the nation.

To use such post-mortems to support allegations of wrongdoing without setting forth the true nature of the purpose of such a report is misleading and unfair in the extreme. For example, on page 175 of the draft report, the statement is made that, "The broader record suggests ... that the intelligence system faults have survived intact." This simply is not true. The evidence reviewed by the Committee does not support that statement.

It is unfortunate that the majority has elected to base its assessment of intelligence performance largely on these post-mortems. The logic of this is difficult to see, for documents prepared for the specific purpose of singling out faulty performance in those isolated instances in which it fell short hardly form a sound basis for judging the quality of performance overall. In isolation from the broad context of intelligence, they give a totally misleading impression of intelligence performance. Their publication, moreover, has a "chilling effect" on the ability of the Community to conduct candid self-examination in the future.

V. The Issue of Public Release of Classified Information

The most unfortunate aspect of the Committee report deals with the unilateral release of classified information. The Majority Bloc, while paying lip service to the principle that some secrets in government are necessary, totally ignored that principle in voting to release publicly its final report. The damage to the intelligence efforts of this nation and its foreign policy that will accrue as a result of such a release will be devastating and lasting. Such a release will not only violate the very charter of the Committee, but also will abrogate an agreement reached with the President of the United States, an agreement which the President believed was reached in good faith.

A. House Resolution 591.

The House of Representatives, in establishing the Select Committee, was concerned about the damage that might result from a release, outside the Committee, of classified information. For this reason, the House included in the resolution which created the committee a provision aimed at preventing such damage. Section 6(a) of House Resolution 591 provides:

"The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent. . . the disclosure, outside the select committee,

of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government."

Any reading of the above section makes it clear that it was designed to prevent the very disclosure the Committee now proposes to publish.

Section 6(a)(2) applies to "any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government." Since the House has by the passage of the resolution ordered the prevention of disclosures outside the Committee by vote of the Select Committee or otherwise and since the President and the Director of Central Intelligence and others maintain that the contents of the report "would adversely affect" such activities, it is clear, even to a non-lawyer, that the publication of such information in the report would be contrary to the resolution establishing the Committee.

B. The Agreement With The President

1. Background and Terms

Because of the numerous damaging leaks of classified information during the early stages of the investigation, the President decided that it was necessary to restrict the nature

and amount of information the Committee could have access to. This decision, had it not been reversed, would have severely hampered the work of the Committee. In order to avoid such an impasse, the Committee reached an agreement with the President not to unilaterally release such information except and until the following procedures were carried out:

(1) The appropriate Administrative Agency would first be allowed to comment on the release. If the Agency did not agree with declassification or public release, the matter would be referred to the President.

(2) If the President did not agree to declassification or public release, he would certify -- in writing -- that the information was vital to our National Security.

(3) Finally, if there was continued disagreement with the President, the Committee reserved the right to submit the matter to the Courts for a final decision.

The Majority report clearly recognizes the existence of the agreement at page 22 where it is stated that:

"the Committee agreed that for purposes of getting the investigation underway again, future disputes (emphasis added) would be referred to the President".

2. Observance Of The Agreement By The Committee.

It is the understanding of the writer that late on Monday, 19 January a draft of the report was given to the CIA for review. They were admonished not to make copies available until the following day to other agencies. Their comments were required to be obtained in 24 hours. Their comments

were first restricted to classified material. Under such a tight deadline an incomplete job resulted. Thereafter the staff met with representatives of the CIA and other intelligence agencies on the 22nd of January for a few hours. That process has been reported to the writer as being a madcap venture where the Committee Staff Director (with six months of experience in handling classified material) ridiculed and denied the arguments made by professionals from the Intelligence Community. The Committee itself only heard Executive Branch arguments as they were filtered through the staff. The Executive Branch was not allowed to make its own arguments before the Committee regarding classification. Further it is apparent that the major thrust of those arguments were not very adequately relayed to the Committee by the staff.

The above procedure could hardly be described as adequate compliance with the agreement. Subsequently, in spite of the existence of a dispute, the Committee chose unilaterally to release the final report to the public rather than submit the dispute to the President and/or the courts for a final determination as called for in the agreement.

As clearly reflected in the hearing record, this agreement dealt with "unilateral declassification or public release of information or documents bearing a security classification". The Committee made this agreement in order to resolve a dispute with the Administration that involved

obtaining classified Administration documents and information.

After the documents and information were obtained and after the hearings were completed, the Committee took the position that the agreement was not binding on unilateral releases of security information in the Committee's public report. Since the Committee made no reservations about releasing classified information in its final report, at the time the agreement was executed, this appears to be a blatant violation of a good faith agreement and is demeaning to the Congress as a whole.

C. Leaks

It is felt that some mention should be made of the appalling lack of security during the investigation. The numerous unauthorized disclosures of classified information reached such an extent that the Committee Chairman admitted that the problem of leaks had reached the point where he felt that a rapid end to the life of the Committee might have been the only solution.

These leaks of information in some cases vitiated even the meager accords reached between the agencies and the Committee staff regarding the disclosure of classified information. One such leak prompted the Special Counsel to the Director of Central Intelligence to write the Chairman.

"Furthermore, even the recipients of these leaks are now indicating quite specifically the sources from which they have received their information. The article in today's New York Times by John Crewdson refers

directly to sources within your Committee. In one instance the Crewdson article deals with the purchase of armored limousines for a foreign chief of state. In our largely fruitless sessions with your staff, we had asked that any particular reference to the chief of state or the dates on which the limousines were purchased should be deleted. Your staff agreed to do this. This agreement was totally academic, for as Mr. Crewdson put it, ". . .the Agency obtained two armored limousines for a third world leader whom Committee sources identified as South Korean President Park Chung Hee." (Emphasis added) There are two other similar references to Committee sources in the article which make it clear that they supplied either fact or innuendo to Mr. Crewdson. These references are but the latest in a series of leaks. The pattern which they represent has become so clear that I felt it necessary to call the matter to your attention."

It is submitted that little comment is necessary on the deplorable conduct described above.

VI. CONSEQUENCES OF THE MAJORITY REPORT

A. Damage Resulting From Entire Investigation

and Report

If Congress permits this report to be published in unclassified form, it will make available in one package -- with the seal of the United States -- a confirmation of the piecemeal leaks of classified information which have seeped out of the Select Committee investigation. There is no question that it will cause extensive damage to our National effort to collect intelligence vital to our National Security.

1.) Foreign Relations

Specifically, this report will cause the United States to lose credibility with all other governments. Many of our allies already look upon such self-flagellation as a form of madness. It will be difficult for any foreign government, friendly ^{foreign} intelligence service, or individual, to cooperate with us in the future. Our relationships depend upon the ability of both parties to exercise discretion, confidentiality, and national integrity in international relations.

The report will provide more fuel to the fire in those countries where splinter groups are currently demonstrating against the U.S. image and presence. It endangers safety and lives of Intelligence Agents abroad --

both those actually engaged as intelligence collectors as well as those who may be unfortunate enough to be in the professions identified as being associated with intelligence activities.

2.) On Intelligence Activities, Particularly Foreign

The report will have a damaging effect on the intelligence profession. It is a slap in the face for thousands of loyal and dedicated Americans serving in the United States and overseas. The gathering of intelligence, in many areas, is a dangerous task -- the safety and lives of these people are being placed in jeopardy needlessly.

As member(s) of Congress -- sworn to represent and uphold the best interests of the U.S. -- and its citizens -- it is not possible in good conscience to lend support to this abrogation of trust by disclosing the information contained in this report.

Nowhere is there any evidence that our adversaries are -- in any way -- lessening their efforts in International Intelligence -- espionage -- or covert activities. Hostile intelligence services will examine this report -- study the weaknesses and strengths (of which none of the latter are mentioned) of our Intelligence knowledge and organization to exploit this to the fullest.

B. The Credibility of Congress

One of the most disturbing aspects of the report is the damage it does to the credibility of the Congress in the eyes of the public and within the membership of Congress itself.

The Select Committee conducted a lengthy and well-publicized battle with the Executive branch to gain access to witnesses, documents and papers necessary to conduct properly the investigation the Committee was assigned by the House. (This battle is described in excessive length and detail in the Committee report; in fact, it is the sole subject of the first 81 pages of the 338 page draft version of the report.) There were extensive negotiations and finally subpoenas. With the backing of the full House, the Committee won this battle, and entered into the good faith agreement mentioned above. Following this agreement, the necessary information and material was made available to the Committee. This is not to say this material was as free flowing as the Committee would have liked; nevertheless, it was forthcoming.

With the publication of this report, which contains material the Committee received under its agreement with the Executive, the majority of the Committee has made a unilateral decision to violate this agreement. No matter what reasons, justifications, or excuses are given, the harsh fact remains that this report represents a violation

of faith. The Majority Bloc of this Committee has put the entire House of Representatives in the position of being untrustworthy and irresponsible; a body not competent to receive state secrets; a body which cannot be trusted to treat responsibly materials which require responsible treatment.

C. Problems Created Which Will Interfere with
Establishing Effective Oversight

If Congress violates its agreement with the President and Executive Branch regarding disclosure of classified information, it nullifies any opportunity for effective oversight and shared responsibility in foreign affairs which was one of the major objectives of the HSC investigation.

The seeds of distrust will have been sown by this action. The Executive Branch will be reluctant to provide the Congress with sensitive security information it requires for future oversight. The American people would probably be sympathetic to, and support, this Executive concern.

III. RECOMMENDATIONS

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A. A HOUSE COMMITTEE ON INTELLIGENCE

1. The Select Committee recommends that there be formed a standing Committee on Intelligence of the House of Representatives. The Committee Membership shall reflect a broad representation of political and philosophical views.

a. No Member may serve more than three consecutive terms on the Committee.

b. The Staff Director and Chief Counsel may not serve more than six years, may not be reappointed to the staff, and may not be selected from a present or former member of the staff.

c. Notwithstanding Rule XI(e) of the Rules of the House of Representatives, the Committee shall determine access to its records and files by other Members of the House.

d. The Committee shall have the right to release any information and documents in its possession or control, and may consult with the executive branch with regard to the release of classified material or information.

e. Any Committee Member who shall release, without authorization of the Committee, materials or information obtained by the Committee shall be subject to a recommendation by the Committee to the Democratic Caucus or the Republican Conference that such Member

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be removed from the Committee, or a recommendation

to the House that such Member be censured.

f. Any Committee Member desiring to release classified materials or information notwithstanding the disapproval of the Committee shall, upon petition of one-fifth of the Membership of the House, be entitled to inform the House in a secret session.

g. Any past or current member of the Committee staff who shall release, without authorization of the Committee, materials or information obtained by the Committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

h. The Committee shall be vested with subpoena power and shall have the right to enforce its subpoenas in the U.S. District Court for the District of Columbia or any other court of competent jurisdiction, without authorization from the House. The Committee staff shall be given statutory standing to represent the Committee in any proceeding arising from the issuance of a subpoena.

i. The Committee's jurisdiction shall include all legislative and oversight functions relating to all U.S. agencies and departments engaged in foreign or domestic intelligence. The Committee shall have exclusive jurisdiction for budget authorization for

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all intelligence activities and for all covert action operations. All remaining oversight functions may be concurrent with other Committees of the House.

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B. CONTROL AND RELEASE OF INFORMATION

1. The Select Committee recommends that any Member of the House desiring to release classified materials or information shall be entitled to appear before the Committee on Intelligence, which shall vote on such Member's request. Notwithstanding the Committee's disapproval, such Member shall, upon petition of one-fifth of the Membership of the House, be entitled to inform the House as to the materials or information in a secret session.

2. The Select Committee recommends that any Member of the House who releases classified materials or information without obtaining a vote of the Committee on Intelligence or a secret session of the House shall be subject to censure by the House and removal from any Committee having access to classified information.

3. The Select Committee recommends that the United States Code be amended to provide criminal sanctions for the unauthorized disclosure of information tending to identify any U.S. intelligence officer, such sanctions to apply regardless of intent to harm the United States or aid a foreign nation.

1. The Select Committee recommends that activities involving direct or indirect attempts to assassinate any individual shall be proscribed, except in time of war.

2. The Select Committee recommends that as to covert action by any U.S. intelligence component, the following shall be required within 48 hours of initial implementation:

a. The Director of Central Intelligence shall notify the Committee in writing, stating in detail the nature, extent, purpose, and costs of the operation.

b. The President shall certify in writing to the Committee that such a covert action operation is required to protect the national security of the United States.

c. The Committee shall be provided with duplicate originals of the written recommendations of each member of the 40 Committee or its successor.

1. The Select Committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.

E. DISCLOSURE OF BUDGET TOTALS

1. The Select Committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part of portion of the budget of another agency or department that it be separately identified as a single item.

F. PROHIBITION OF FUND TRANSFERS

1. The Select Committee recommends that there be appropriate legislation to prohibit any significant transfer of funds or significant expenditures of reserve or contingency funds in connection with intelligence activities without specific approval of the proposed Intelligence Committee.

G. DCI AS CABINET RANK

1. The Select Committee recommends that the Office of Director of Central Intelligence be accorded

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cabinet rank, to be nominated by the President and subject to confirmation by the Senate. This office shall have the following powers and duties:

a. The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

b. The DCI shall be a Member of the National Security Council.

c. The DCI may not hold a position or title with respect to any other agencies of government.

d. The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the foreign intelligence agencies, including other agencies of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct or allegations of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.

e. The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

f. The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress.

g. All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As to those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

h. The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

H. FULL GAO AUDIT AUTHORITY

1. The Select Committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by any executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an Agency alone.

1. The Select Committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually. It is further recommended that all procurement mechanisms be subjected to annual comprehensive review.

J. FULL DISCLOSURE TO CONGRESS

1. The Select Committee recommends that existing legislation (National Security Act of 1947, Sect. 102(d)(3)) restricting the Directors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude Committees of Congress having appropriate jurisdiction.

K. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The Select Committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a permanent Foreign Operations Subcommittee of the National Security Council. The Subcommittee's jurisdiction, function and composition shall be as follows:

a. The Subcommittee shall have sole jurisdiction over all activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

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b. All recommendations of covert action

considered by the Subcommittee as described in "a" above shall be specifically acted upon by all members of the Subcommittee and their respective positions set forth in writing signed by each member.

c. The Subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

Assistant to the President for National Security Affairs;

Director of Central Intelligence;

Under-Secretary of State for Political Affairs;

Deputy Secretary of Defense;

Deputy Director for Intelligence of CIA;

Chairman of the Joint Chiefs of Staff.

L. DEFENSE INTELLIGENCE AGENCY

1. The Select Committee recommends that the Defense Intelligence Agency be abolished and that its functions be transferred to the Assistant Secretary of Defense for Intelligence and the CIA.

M. MEDIA

1. The Select Committee recommends that U.S. intelligence agencies not use general circulation journals of electronic media, or their employees or stringers, for purposes of cover or information-gathering.

N. DETAILEES

1. The Select Committee recommends that intelligence agencies disclose the affiliation of employees on detail to other government agencies or departments to all immediate colleagues and superiors.

O. ASSISTANT FOR NATIONAL SECURITY AFFAIRS

1. The Select Committee recommends that the Assistant to the President for National Security Affairs be prohibited from holding any cabinet-level position.

P. RESTRICTIONS ON POLICE TRAINING AND RELATIONSHIPS

1. The Select Committee recommends that no agency of the United States engaged principally in foreign or military intelligence, directly or indirectly engage in the training or the supplying of domestic police agencies of the United States, and that contracts between police agencies of the United States and foreign police agencies be limited to those circumstances which shall be required on account of internal security or the normal requirements and functions of such police agencies.

Q. RESTRICTIONS ON MILITARY INTELLIGENCE

1. The Select Committee recommends that the intelligence functions of the armed services of the United States are limited solely to the gathering of intelligence and such military services be specifically prohibited

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from engaging in any other clandestine activities
within or without the United States.